

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

The specification has been amended. Support for the amendments to the specification can be found, at least, in the specification, e.g., paragraphs 0017 and 0048, the figures, and the claims as originally filed, e.g., claims 82-95. No new matter has been added.

Claims 1-95 are now pending in the application.

Examiner Interview Summary

Applicants thank Examiner Bryan Wright for a helpful telephonic interview on June 29, 2010. In the interview, the Examiner and Applicants' representative discussed the rejection of claims 1-95 based on Hardt (U.S. Patent Publication No. 2005/0114453). In particular, the Applicants' representative directed the Examiner's attention to the filing date of the present application and the filing date of Hardt. The Examiner suggested filing this response after the Final Office Action outlining this filing date issue. No agreement was reached during the interview.

Objections to Specification

1. In paragraph 2 of the Office Action, the specification was objected to for containing embedded hyperlink. Paragraph 0048 of the specification has been amended to remove the embedded hyperlink. Accordingly, the objection to the specification should be withdrawn, and the application is now in a state of allowance.
2. In paragraph 3 of the Office Action, the specification was objected to for failing to provide proper antecedent basis for the claimed subject matter. In particular, the Office Action states that the specification does not recite the "computer readable medium" in claim 82. Applicant respectfully disagrees with this objection. However, to expedite prosecution,

Applicant has amended the specification to include such antecedent basis. Accordingly, the objection to the specification should be withdrawn, and the application is now in a state of allowance.

Rejection under Double Patenting

In paragraph 4 of the Office Action, claims 1-95 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-60 of copending U.S. Application No. 11/137,031. Applicant respectfully disagrees with this rejection. However, since this application and U.S. Application No. 11/137,031 are both still pending, Applicant respectfully requests that this rejection be held in abeyance.

Rejection under 35 USC 101

In paragraph 5 of the Office Action, claims 82-95 are rejected under 35 USC 101 as being directed to non-statutory subject matter. In particular, claims 82-95 are rejected as being drawn to a computer product in a computer readable medium, and the term “medium” could be interpreted to include a transitory signal. Applicant respectfully disagrees with this rejection. However, to expedite prosecution, Applicant has amended the specification to explicitly recite that the medium does not include a signal. Accordingly, the rejection of claims 82-95 should be withdrawn, and claims 82-95 are now in a state of allowance.

Rejections under 35 USC 103

In paragraphs 6-35 of the Office Action, claims 1-30 were rejected under 35 USC 103(a) as being unpatentable over Hall (U.S. Patent No. 5,930,479) in view of Katsikas (WO 01/16695) and further in view of Hardt (U.S. Patent Publication No. 2005/0114453). In paragraphs 36-(re-numbered 2-65) of the Office Action, claims 31-95 were rejected under 35 USC 103(a) as being unpatentable over Hall in view of Hardt. Applicant respectfully disagrees with these rejections.

Hardt was filed on November 17, 2003 and published on May 26, 2005. The present application was filed with the U.S. Patent and Trademark Office as a 371 national phase

application of PCT/US2003/025067, filed on August 11, 2003, and claims priority to U.S. Provisional Patent Application No. 60/402,574, filed on August 9, 2002. As discussed in MPEP 1893.03(b), “[i]t should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application. Specifically, 35 U.S.C. 363 provides that ‘An international application designating the United States shall have the effect, from its international filing date under Article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(c) of this title.’ Similarly, PCT Article 11(3) provides that ‘...an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.’” Thus, the filing date of the present application is the international filing date of the PCT patent application, August 11, 2003.

As discussed in MPEP 2141.01, a “35 U.S.C. 103 rejection is based on 35 U.S.C. 102(a), 102(b), 102(c), etc. depending on the type of prior art reference used and its publication or issue date.” Hardt cannot support a rejection under 102(a), 102(b), or 102(c), because Hardt was filed after the filing date of the present application and the publication date of Hardt was after the filing date of the present application.

Patent Application	Filing Date	Publication Date	Priority Date
Hardt	November 17, 2003	May 26, 2005	None
Present Application	August 11, 2003	February 19, 2004	August 9, 2002

Hardt cannot support the 35 USC 103 rejections of the present application based, at least, on the reasons as described herein. As such, the Hall and Katsikas references provide the only support for the rejections of claims 1-95 and are discussed in turn.

With respect to claims 1-95, Hall was previously discussed in the Applicants' response to the non-final office action filed on March 31, 2010. As such, a discussion of Hall is not repeated herein. Further, Applicants thank the Examiner for the indication that Hall in view of Katsikas "does not expressly teach determining by a security module pursuant to security settings alterable by said recipient user." (Office Action dated 6/28/2010, page 8). Applicants respectfully request the review of such remarks distinguishing claims 1-95 from Hall, because Hall does not provide a proper basis for either of the outstanding rejections. Accordingly, based, at least, on the Examiner's indication with respect to Hall and Katsikas and the previous remarks by the Applicants with respect to Hall, Hall does not teach, suggest, or describe claims 1-95.

With respect to claims 1-95, Katsikas was previously discussed in the Applicants' response to the non-final office action filed on March 31, 2010. As such, a discussion of Katsikas is not repeated herein. Applicants respectfully request the review of such remarks distinguishing claims 1-95 from Katsikas, because Katsikas does not provide a proper basis for either of the outstanding rejections. Accordingly, based, at least, on the Examiner's indication with respect to Hall and Katsikas as described above and the previous remarks by the Applicants with respect to Katsikas, Katsikas, combined with Hall or separately, does not teach, suggest, or describe claims 1-95.

It is submitted that all of the independent claims of the subject application, claims 1, 3, 31, 68 and 82, and claims 2, 4-30, 32-67, 69-81, and 83-95 dependent thereon, now fully and clearly define the dynamic security features of the applicants' invention, and that the claimed system/method/computer program for allowing or denying communication access, are patentably distinct over Hall alone, or in combination with Katsikas.

For these reasons, it is submitted that there now is no proper basis for either of the outstanding Section 103 rejections. Those rejections should be reconsidered and withdrawn. All claims 1-95 are believed to be in condition for allowance.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-4514. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-4514. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-4514.

Respectfully submitted,

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